

### **REMARKS**

In response to the Office Action of September 20, 2007, please reconsider the present application in view of the following remarks. Applicant thanks the Examiner for carefully considering the application.

#### **Status of Claims**

Claims 1-21 are currently pending. Claims 1, 8, and 12 are independent.

Claims 1-3 and 5-7 were rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent No. 6,738,978 (“Hendricks”) in view of U.S. Patent No. 6,088,722 (“Herz”). Rejections of claims 2-21 from previous Office Actions were maintained in the instant Office Action.

#### **Rejection under 35 U.S.C. 103(a)**

##### ***Claims 1-3 and 5-7***

The rejection is respectfully traversed because Hendricks and Herz, whether considered separately or in combination, fail to show or suggest the claimed limitations.

The claimed invention is directed to a television rating system for targeted program delivery. Independent claim 1 requires, in part, “a contextual behavioral profiling agent included in the client-side system” for “deriving profiling information related to a television user’s viewing behavior with content and usage-related preferences.” Advantageously, embodiments of the claimed invention provide an intelligent and flexible method for targeted program delivery.

The instant Office Action agrees that Hendricks does not show or suggest the above-mentioned limitations, but asserts that Herz (col. 41, lines 55-60) supplies a customer profile system that calculates the agreement matrix at the customer’s set top terminal from the customer profiles stored in the set top multimedia terminal and the content profiles of the received video programming. Applicant respectfully disagrees. The instant Office Action seemingly equates the customer profile system of Herz to the claimed “behavioral profiling agent.” Herz does not show or suggest its customer profile

system to be “included in the client-side system” and for “deriving” profiling information as the claimed “behavioral profiling agent.”

The cited portion of Herz (col. 41, lines 55-60), relied upon by the Examiner, reads:

In a one-way data transmission system in accordance with the invention, a customer profile system in accordance with the invention calculates *the agreement matrix at the customer's set top multimedia terminal* from the *customer profiles stored in the set top multimedia terminal* and the content profiles of the received video programming. This technique allows the set top multimedia terminal to create "virtual channels" of the video programming received which the set top multimedia terminal deems most desirable on the basis of the customer's profile(s). (Emphasis added).

It appears that the Examiner interprets the above passage as teaching that a customer profile system resides in the customer's set top multimedia terminal. Applicant respectfully disagrees. In the above passage Herz only mentions that a customer profile system calculates an agreement matrix using customer profiles and received programming profiles, wherein the customer profiles and programming profiles (not program content) reside at the customer's set top multimedia terminal.

However, the first sentence from the above passage, relied upon by the instant Office Action to make the rejection, does *not* teach or suggest that the customer profile system resides at the set top terminal. The grammatical structure of said sentence determines that the *set top multimedia terminal* limits only *the customer profiles* and *the agreement matrix* to be at the set top multimedia terminal, but *not* the customer profile system to be also in the set top multimedia terminal. The location of the customer profile system as taught by Herz has to be inferred from elsewhere of the disclosure.

Indeed, Herz teaches away from the claimed limitations by disclosing that the customer profile system resides at the server side.

For example, col. 4, lines 50-65 of Herz reads:

The initial customer profiles are determined from customer questionnaires, customer demographics, relevance feedback techniques, default profiles, and the like, while the initial content profiles are determined from questionnaires completed by "experts" or some sort of customer's panel, are generated from the text of the video programs themselves, and/or are determined by adopting the average of the profiles of those customers who actually watch the video program. Based on the comparison results, one or more customized programming channels are created for transmission, and from those channels, each customer's set top multimedia terminal may further determine "virtual channels" containing a collection of only those video programs having content profiles which best match the customer's profile and hence are most desirable to the customer during the relevant time frame.

From the above passage (col. 4, lines 50-65), it is clear that the customer profile system in Hertz resides at the server side (central location) and not at the client side (user set top terminal). Further, the collection and analysis of the questionnaires, demographics, etc., show that the customer profile system in Herz operates at a server side (central location) for calculating an agreement matrix using customer profiles and received programming profiles, wherein only the customer profiles and programming profiles reside at the customer's set top multimedia terminal.

Further, col. 10, lines 15-21 of Herz reads:

In accordance with the preferred embodiment of the invention, the content profiles describe the contents of video programs and are compared mathematically in a computer to customer profiles to generate an agreement matrix which establishes the degree of correlation between the preferences of the customer or customers and the video programming available during each video programming time slot.

From the above passage (col. 10, lines 15-21), it is clear that in Hertz a central system and computer are used to compare the contents of video programs with the customer profiles. The contents of video programs are only available in the central

system, not in the individual user set top terminal (client side). As a further example, col. 42, lines 54-63 of Herz reads:

In the two-way implementation, **the customer profile system is implemented at the video head end** by creating an agreement matrix for all customers from customer profiles stored at the head end and content profiles of the video programming to be transmitted. This technique allows the video head end operator to objectively determine which video programming is most likely to be desired by his or her customers and also allows one to minimize the memory requirements at the set top multimedia terminal. (Emphasis added)

The above passage (col. 42, lines 54-63) further corroborates that the customer profile system of Herz is located in the head end (central location or server side), and not the user set top terminal (client side).

In view of the above, Hendricks and Herz, whether considered separately or in combination, fail to show or suggest the claimed invention as recited in independent claim 1 of the present application. Thus, independent claim 1 of the present application is patentable over Hendricks and Herz. Dependent claims 2, 3 and 5-7 are allowable for at least the same reasons. Accordingly, withdrawal of the rejection is respectfully requested.

### ***Claims 2-21***

Regarding claims 2-21, the instant Office Action merely asserts that “see discussion in previous Office actions.” Applicant respectfully notes that all the rejections as set forth in previous Office actions were based on the assertions that Hendricks discloses a client-side profiling system, which assertions being finally traversed by the instant Office Action itself as discussed above. Herz was not relied upon at all in rejections of most of the claims. Thus, all the remaining rejections are now moot. Accordingly, withdrawal of the rejections of claims 2-21 is respectfully requested.

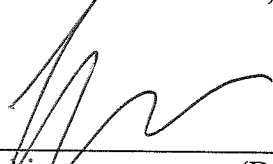
**CONCLUSION**

In view of the foregoing remarks, Applicant believes that the rejected claims are in condition for allowance. Reconsideration, re-examination, and allowance of the rejected claims are respectfully requested. If the Examiner feels that a telephone interview would help with the examination of the present application, the Examiner is encouraged to call the undersigned attorney or his associates at the telephone number listed below.

Please direct all correspondence to **Myers, Dawes Andras & Sherman, LLP**,  
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Respectfully submitted,

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